



IN THE SUPREME COURT OF THE STATE OF MONTANA
THE OFFICE OF THE CLERK OF SUPREME COURT
HELENA, MONTANA 59620-3003

November 10, 2009

**NOTICE REQUIRING FILING OF AMENDED NOTICE OF APPEAL
OR CROSS-APPEAL**

Supreme Court No.
DA 09-0602

JOSEPH T. BERLIN and MARTHA M. BERLIN,

Plaintiffs and Appellees,

v.

MAGNOLIA ENTERPRISES, LLC., COLBERT P. HOWELL, BARBARA
J. HOWELL, NORTHWEST ACCEPTANCE CORP., BARBARA JEAN
HOWELL as TRUSTEE of the REVOCABLE INTERVIVOS VIRGINIA-BELL
NEILSON TRUST, and DENNIS DeVAR NEILSON,

Defendants and Appellatns

Notice of Appeal Filed was filed on November 4, 2009 in that cause of action filed in Missoula County - Fourth Judicial District as Cause No. DV 08-1552. The notice does not contain the following required certification(s):

1. ____ That this matter ____ is/is not ____ subject to the mediation process required by M. R. App. P. 7. If subject to mediation, the money judgment being sought ____ is/is not ____ less than \$5,000.
2. ____ That this matter ____ is/is not ____ an appeal from an order certified as final under M. R. Civ. P. 54(b). If this is such an appeal, a true copy of the District Court's certification order is attached to the notice of appeal/cross-appeal as Exhibit "A."
3. ____ That the notice required by M. R. App. P. 27 has been or will be given, within 11 days of the date hereof, to the Supreme Court and to the Montana Attorney General with respect to a challenge to the constitutionality of any act of the Montana Legislature.
4. ____ That all available transcripts of the proceedings in this cause involving the issue(s)

appealed _____ have been/have not been _____ ordered from the court reporter contemporaneously with the filing of this notice of appeal. If all available transcripts have not been ordered, that Appellant has complied with the provisions of M. R. App. P. 8(3) contemporaneously with the filing of this notice of appeal.

5. _____ That all available transcripts of the proceedings in this cause involving the issue(s) cross-appealed _____ have been/have not been _____ ordered from the court reporter contemporaneously with the filing of this notice of cross-appeal. If all available transcripts have not been ordered, that Cross-Appellant has complied with the provisions of M. R. App. P. 8(3) contemporaneously with the filing of this notice of cross-appeal.

6. _____ That a copy of the notice of _____ appeal/cross-appeal _____ has been contemporaneously filed in the office of the Clerk of the District Court and served by mail on all attorneys of record and on all parties not represented by an attorney.

7. _____ That the notice of appeal/cross-appeal was not accompanied by the filing fee prescribed by statute or the affidavit to proceed without payment of the required filing fee prescribed in the Appendix of Forms as Form 3. PLEASE NOTE THAT THE NOTICE OF APPEAL/CROSS-APPEAL WILL NOT BE FILED UNTIL THE FILING FEE IS PAID OR THE AFFIDAVIT FILED.

YOU ARE HEREBY DIRECTED TO CORRECT THE ABOVE-CHECKED DEFICIENCIES WITHIN 11 DAYS OF THE DATE OF THIS NOTICE AND TO BRING THE NOTICE INTO COMPLIANCE WITH M. R. APP. P. 4.

A true copy of this notice has been mailed on the date hereof to all attorneys of record and to all parties not represented by an attorney.

Dated November 10, 2009

Sincerely,



ED SMITH
Clerk of the Supreme Court